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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,161	09/06/2006	Roland Burk	016906-0503	3248
23428 7590 10/12/2010 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
SAVANI, AVINASH A				
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
10/12/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/577,161

Applicant(s)

BURK ET AL.

Examiner

AVINASH SAVANI

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S&C/2)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 8/6/2010, 4/26/2010

DETAILED ACTION

Status of Claims

1. The following action is in response to the applicant's Amendment dated 8/6/2010, that was in response to the Office action dated 5/10/2010. Claims 1-6 are pending and have been amended. The claims have been amended to claim an invention of a method rather than an apparatus, thus it is recommended that the title be changed to reflect the change in the claims for further prosecution.

Response to Arguments

2. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection. In light of the claim amendments, the previous 35 USC 102(b) rejection will be withdrawn, however it is believed the previous applied prior art is modifiable to show obviousness of the claim amendment. Therefore, a 35 USC 103(a) rejection will be presented. Also, in light of the claim amendments, the previous 35 USC 112, 2nd rejection will be withdrawn.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1-3 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Dage et al [6464027], further in view of Uhl [20050061798].
6. With respect to claim 1, Dage discloses: In a motor vehicle which has an internal combustion engine (14) and a vehicle interior [see FIG 2], and a cooling circuit (34) for cooling the internal combustion engine (14) [col 2, line 49-50, col 5, line 46-49] and a heating circuit [see FIG 1] which has at least one heating body (48), for heating the vehicle interior, and an electrical first additional heater (66), [see FIG 1, col 4, line 27-31], and a heat source connected to the cooling and/or heating circuit (34) as a second additional heater (54) [see col 3, line 56-col 4, line 9] a method comprising: operating the electrical first additional heater to heat the vehicle interior [col 3, line 36-42]; operating the second additional heater to heat the cooling and/or heating circuit [col 4, line 10-27]; however does not disclose the switching off or turning down of the electrical heater. Uhl teaches a similar heating device and method such that after the second additional heater is operating, switching off or turning down the electrical additional heater [0077]. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the method of Dage to incorporate the technique of Uhl, because it was known that switching off or turning down the first heater when a second heater is operable will provide for a more efficient heating of a vehicle interior, yielding the predictable result of preventing over heating of vehicle components.

7. With respect to claim 2, Dage discloses: The method as claimed in claim 1, wherein the heat source is in the form of an exhaust-gas heat exchanger (54) [see FIG 1].
8. With respect to claim 3, Dage discloses: The method as claimed in claim 2, wherein the exhaust-gas heat exchanger (54) is arranged between the internal combustion engine (14) and the heating body (48) in the heating circuit [see FIG 1].
9. With respect to claim 6, Dage discloses: The method as claimed in claim 1, wherein the heat source is in the form of a fuel heater (64) [col 4, line 10-16].
10. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dage [027], in view of Uhl [798], further in view of Itakura [4993377].
11. With respect to claim 4, Dage discloses the method as claimed in claim 1, however does not disclose the visco heater.
12. With respect to claim 5, Dage discloses the method as claimed in claim 4, however does not disclose the visco heater as further claimed.
13. With regard to claims 4 and 5, Dage discloses the heating apparatus, however Itakura teaches a similar method wherein the heat source is in the form of a visco heater (22) [col 4, line 15-26] and wherein the visco heater is arranged upstream of the heating body (18) in the heating circuit [see FIG 1]. In view of Itakura, a visco heater is used to convert mechanical energy to heat by means of liquid friction. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use a visco heater as a heat source because the technique was known in the art, yielding the predictable result of utilizing waste heat to heat a compartment of a vehicle.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **AVINASH SAVANI** whose telephone number is (571)270-3762. The examiner can normally be reached on **Monday- Friday, alternate Fridays off, 7:30-5 EST**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Steven McAllister** can be reached on **571-272-6785**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Avinash Savani/
Examiner, Art Unit 3749

Steven McAllister
Supervisory Patent Examiner

/A. S./
10/7/2010

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